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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 28TH DAY OF MAY, 1998

BEFORE

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

HOUSE ARREAR REVISION PETITION NO: 292/1998

BETWEEN:

Sri. Syed Mukhtar,
@ Aforz
s/o Sri. S.A. Lateef,
No. 10
Davis Road,
Fraser Town
Bangalore-5.

PETITIONER

(By Sri. K.V. Narasimhan, Adv.,)

AND:

1. Sri. M. Hidayathulla
s/o Sri. M. Basheer Shariff,

2. Smt. Sayeeda Banu
Sri. Md. Samiullah

3. Miss. Sajida Banu
s/o Sri. M. Hidayathulla

No. 1 and 3 are r/o No. 181
Mariyamma Temple Street
Main Road Cross
Devan Jeevanahalli
Bangalore-45.

No. 2 r/o No. 25,
Marappa Block
Munireddy Palya
Bangalore-6.

RESPONDENTS

This petition is filed under Section 50(1) of the KRC Act, against the order dtd. 10-11-1997 passed in HRC No. 10707/1991 on the file of the XIII Addl. Judge, Court of Small Causes, Bangalore, allowing I.A. 8 filed under Section 29(1) of KRC Act.

This petition coming on for admission this day, the Court made the following:-

O R D E R

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Respondents-1 to 3 claiming to be the landlord of the petition schedule premises filed eviction petition against fourth respondent herein under Section 21(1)(a), (f), (h) & (p) of the Karnataka Rent Control Act, 1961 ('Act' for short). Petitioner herein claims to have got himself impleaded as the second respondent in the said petition claiming that he is the owner of the property.

2. Respondents-1 to 3 filed an application (I.A.VIII) under Section 29(1) of the Act. That application has been allowed by the Court directing the respondents in the eviction petition to pay the rent at the rate of Rs.180/- per month from 25-10-1991. Fourth respondent and petitioner (Respondents 1 and 2 in the eviction petition) are the sons of S.A.Lateef who, admittedly, was earlier the tenant of the premises. The premises originally belonged to the mother of respondents-1 to 3; and the father of the petitioner and fourth respondent had taken the premises on rent from the mother of respondents-1 to 3.

3. The petitioner, who is one of the sons of the tenant, contends that the mother of respondents-1 to 3

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had made an oral gift (Hiba) of the petition schedule premises in his favour and therefore he had become the owner of the property and respondents-1 to 3 are not the owners of the property; and therefore there is no relationship of landlord and tenant between respondents-1 to 3 on the one hand and respondent-4 on the other. The Court below has disbelieved the said contention of the petitioner, as no documentary evidence was produced by the petitioner to prove such gift. There was also no occasion for the land lady to make an oral gift in favour of one of the sons of the tenant.

4. Petitioner has not made out any ground to interfere with the said order, ^{or the finding given by the Court below.} I find no merit in the petition. Accordingly, it is rejected.

Sd/-
JUDGE

sp/ujk